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THE GARDINER CASE. CRIMINAL COURT FOR THE DISTRICT OF

[BEFORTED FOR THE REPUBLIC.]

TWENTY-FOURTH DAY-Friday, April 8.

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Abner Doubleday, avorn.

In answer to questions by Mr. May, the witness stated as follows: I am a first lieutenant of artillery; was educated at West Point in the science of engineering, which is part of the course of education pursued there, and have practiced as a civil engineer for two or three years before I went to West Point, and have practiced civil engineering since I left West Point. I was one of the commissioners appointed by the Senate Committee on Mexican Claims to go to Mexico. I visited San Luis Potosi with the rest of the commission. The commission went from San Luis Potosi to Guadalcazar; from there to Rio Verde; from Rio Verde to Nuevo Camotes, and from Nuevo Camotes to Laguinillas. I do not remember the distance from Rio Verde to Laguinillas, but think it is about twenty-four leagues. I A map was here presented to witness.] I made that map. On examining it I think the distance from Rio Verde to Laguinillas is about twenty-six or twenty-seven leagues. It may be a little more than that. This map is not made with reference to a scale of inches. A Mexican league is about two and a half American miles. I have been in Mexico with our army before I went on this commission. I have made experiments to test the accuracy or length of a Mexican league in comparison with an American mile. I find it to be made on a computation of thirty-two inches to the varros. The league is a fraction over two and a half American miles—between two and a half and two and three-quarters. In making this map the sources of information to which I had access were there. I obtained permission to inspect the maps in the War Department, in the National Palace of Mexico, before I went to San Luis Potosi.

Ques. Was the War Department in Mexico the place where the maps they had there, and selected the latest one, and, in fact, the only one I could find in the State of San Luis Potosi.

Ques. Was the War Department in Mexico the place where the maps were deposited?

Ans. I was not referred to any o

Mr. BRADLEY. Was that copy made on tracing-

Mr. Bradley. Was that copy made on tracingpaper made upon the same scale?

Witness. It is on a different scale.

Mr. May. Did you get any other information?

Ans. I took the course of the road as we went
along, and made estimations of the distances, and
corrected the map by my observations.

Ques. Did you find any other information?

Ans. I found in Queretaro that there was a map
of that State, from which I obtained the boundary
of the State between it and San Luis Potosi.

Ques. Has the map you got from Queretaro also
been reduced to the scale of that map?

Ans. It has.

Ques. Did you consult any maps in the State of
San Luis Potosi, or Rio Verde, or anywhere else?

Ans. No, I could find none in San Luis Potosi. I
consulted the maps in the possession of the Colonel
of Engineers, Mariana de los Reyes, who was endeavoring to make a carriage-road, as I understood it, from Tampico San Luis Potosi. He was
then engaged as a public engineer of the State.
I took the benefit of his maps, and saw that they
agreed with the map of the Governor of Queretaro
in relation to this boundary.

agreed with the map of the Governor of Queretaro in relation to this boundary.

Ques. I understand that you made observations with instruments you carried with you for the purpose of ascertaining the correctness of these maps which you took with you, and that you made correction where you found errors?

Ans. I did.

Ques. I will ask you whether, according to these maps and the information you acquired there, the map which is now before you represents faithfully the country, so far as you are acquainted with it?

Ans. Yes, sir.

Ques. And the positions of places are correctly located?

Ans. They are, as corrected.

located?

Ans. They are, as corrected.

Ques. I ask you, with respect to all these lines and boundaries, if it is a faithful representation of the location of the country?

Ans. The boundary of Laguinillas is made from

tion of the boundaries obtained in San Luis Potos and from my own observations. Ques. Did you find the north boundary stone? Ans. Yes, sir. Ques. Did you make any observation there? Ans. Yes, sir. Ques. Did you find a boundary stone in the

corner, I believe.

Ques. Did you find the descriptions which you examined to coincide with the locations of these

Ans. Yes, sir, exactly.

Ques. Had you not a previous knowledge of
these boundary stones as they are used in Mexico?

Ans. Yes, sir; I had seen them before.

Ques. I see that mountain ranges are set down
on the map as existing in Laguinillas?

Ans. These are set down from my own obser-Ques. I see that Arroyo Seco is set down as being the State of Queretaro. Is it in that State?

Ans. It is.

Ques. Can you say how far it is from the town
of Laguinillas to the southern boundary of tha

Ans. About five or six leagues. I think the ongest distance is about seven leagues.

Ques. After you pass that distance in any direct on to the south, east, or southwest, do you go

Yes, sir.

Do you remember the village of Penijuan Is it located upon your map?

Ques. Is it located upon your map?

Ans. It is.
Ques. I will ask you whether you made constant and repeated observations?

Ans. Yes, str.
Ques. Does that line describe correctly or no

line that was travelled by the comi

the line that was travelled by the commissioners?

Ans. Yes, sir.

Ques. Will you describe the character of that road and the roads you saw in Laguinillas, and the general face and character of the country?

Ans. The road goes up and down a mountain. You cannot call it a road. It is a mere bridle path. It goes up some very steep ascents, and down some very steep declivities. The country is covered with very thick chapperal—trees about eight or ten feet high, something like large bushes, which are allowed in the country is covered with very thick chapperal—trees about eight or ten feet high, something like large bushes, which are allowed in the character of the whole district of Laguinillas mountainous, as you describe it?

Ans. Yes, sir; very mountainous

Ans. Yes, sir; very mountainous, as you describe it?
Ans. Yes, sir; very mountainous
Ques. I will ask you, as a matter of opinion, rhether a steam-engine could be carried into that

the steep side of one mountain and let down the steep side of another mountain. There is nothing like a road that I saw. How is transportation effected in that

Ques. How is transportation effected in that country?

Ans. On mules and donkeys.

Ques. Did you see any wheeled vehicles there?

Ans. I did not.

Ques. What is the position of Laguinillas?

Ans. It is in a sort of valley—that is, it is about half-way up a mountain; and on leaving it you have to descend into a vailey.

Ques. Are there any plains around it?

Ans. No plains of any size.

Ques. What is the character of the country in the vicinity of the town of Laguinillas?

Ans. It is surrounded by high mountains, which are wooded on the tope. It is a limestone region. I saw prople making time there.

Mr. Bradley. Where?

Ans. Near Laguinillas.

Ques. Did you notice as a general thing the geological character of the rocks of that country?

Ans. I did not particularly.

Ques. Did you not see the rocks as you rode over them on the road?

Ans. Of course I did.

Ans. Of course I did.
Ques. And the country appeare

. Did you have general intercourse

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Ans. I did not ask for mining towns. I inquired Mr. FENDALL. Did you inquire for towns o

actilements of persons?

Mr. Bradley. He has just said that he did not.

Mr. FENDALL. No; he said he did not inquire
for mining towns.

Mr. May. Did you locate every town or settlement which you found in that country upon that

map?
Ans. Yes, sir.
Quee, I will ask you if you found any mine in

Ques. I will ask you if you found any mine in that country?
Ans. I did not.
Ques. Not of any description?
Ans. Not of any description.
Ques. Did you look for mines?
Ans. Yes, sir.
Ques. Generally, or not?
Ans. I should correct myself when I say that I looked for them. I did not look for them, but tried to find out whether there were any.
Mr. Baadley. Yes; but that won't do.
Wilness. I tried to find out where to look.
Mr. May. Where did you try to find out where to look?

to look?

Mr. Bradley explained to the witness the rul
laid down by the court in relation to inquiries about

Mr. May. What is the size of the district of Ans. It is about ten leagues long by about six

Ans. It is about ten leagues long by about leagues broad.

Ques. Did the commissioners travel through its length?

Ans. Yes, sir.

Ques. Did they visit any place, or any houses along their route?

Ans. Yes, sir.

Ques. Where?

Ans. They visited every place on or near the route—every settlement.

Ans They visited every place on or near the route—every settlement.

Ques. How was it with respect to houses?

Ans. They visited every house along their route.

Not every house in the town of Laguinillas, but every house on their route, both before they arrived at and after they left Laguinillas.

Ques. Where did the commissioners go to after they left Arroyo Seco?

Ans. They went to Carasal, in the State of Questaro.

Queretaro.

Ques. This place (Carasal) I understand is in the State of Queretaro?

Ans. Yes, sir.

Ques. How many leagues is Carasal from Laguinillas? nillas. Ans. The road was so terrible that I might have been deceived in the distance. I might have made it appear a shorter distance than it really is. I do not know what the distance would be by an air

Ques. What was the distance by the road? Was

Ques. What was the distance by the road? Vethere any other road?

Ans. There was no other road.
Ques. Did you go by the road?

Ans. I did.
Ques. Had you a guide through Laguinillas?
Ans. I had a guide to the boundary stone.
Mr. Baalley. From where?

Ans. From Noevo Camotes to the first or nor see boundary stone.

rn boundary stone; Ques. And the guide went with you from Arroyc

Ans. Yes, sir.

Ques. What is the distance by the course of the road from Laguinillas to that boundary stone?

Ans. I should think it is about fourteen leagues.
Ques. Do you recollect what time of day the commissioners left Laguinillas?

Ans. It was some time after surrise. I did not look at the watch. I remember now I did look at the watch, but I no not recollect what the time was. The sun was up.

Ques. Were you in the habit of noticing the time as we passed along the road?

Ans. Yes, sir.

Ques. Did you keep a note of the time?

Ans. I did.

Ques. After leaving the town of Laguinillas and going south, what course was taken?

Ques. After leaving the town of Laguinillas and going south, what course was taken?

Ans. We went on a southwesterly course.
Ques. Did you stop at the houses or settlements along the road?

Ans. We stopped at every house, I believe.
Ques. Arroyo Seco is a village?

Ans. Yes, sir.

Ques. How far is it from the boundary line of the State of San Luis Potosi?

Ans. It is a league.

Ans. It is a league. Ans. Yes, air; an hour or two.
Ques. Did you converse with people there?
Ans. Yes, sir.
Ques. Do you remember any thing of a river

winter season.
Where did you first find running water Ques. Where did you first find running water after leaving Laguinillas?

Ans. At Carasal we met with a considerable

Ques. Do you remember the direction of stream?

Ans. It runs to the southeast, and then turns up and goes to this corner, (pointing to a place on the map.) to Santa Maria de Acapulco. I do not know that the stream turns; but another stream seems to join it at that place.

Mr. Brandery. Were you up at that junction?

Ans. I was not.

Mr. Brader. Were you up at that junction?
Ans. I was not.
Ques. Then you know nothing of it personally?
Ans. No.
Ques. What sort of road was it that the commis

ion passed over to Carasal?

Ans. It was a very bad road, almost a precipice ery steep, and full of boulders, and winding steep, and full of boulders, and winding steep. that I thought it almost impossible to get down it.

Ques. Did you ever see such a road before?

Ans. I never did. It was so steep that there was great danger that the animals would fall down

upon us.

Ques. What was the character of the road beyond Carasal?

Ans. If possible, it was worse than the other.

Ques. For how many days did you have such

Ans. For two or three days we had the most ter-rible roads. Que Is it all a mountainous country there, or not?

Ans. None.
Ques. Did you or not sometimes reach high so mits of mountains, and have an extensive view the country in all directions?
Ans. Yes, sir.
Ques. And how did it appear to the eye?
Ans. A wilderness of mountains as far as the could reach.

Ans. A wilderness of mountains as far as the eye could reach.

Ques. How far could you see?

Ans. A great distance. I suppose we were on the summits of some of the loftiest mountains in that part of Mexico. The mountains there are elevated to a great height above the level of the sea, and the climate depends upon whether you are up the mountain or down the mountain. You can have the tropics or the temperate zone in a few hours. The atmosphere is very clear there.

Ques. How far would you be able to see the character of the mountains by the naked eye?

Ans. From some of the heights we could see a long distance. I cannot estimate the distance exactly, but I should say much more than twenty or thirty miles. The country, as far as the eye could reach, presented the same wilderness all round.

ound.

Ques. Then in your opinion a steam-engineered not be brought into that country?

Ans. I do not think it could, by any possi

Ans. I do not think it could, by any possibility.

Ques. Did you see anywhere any of the scoria which is burned out of mines or furnaces, or any indications of mines there, by the appearances of the rocks, or by any other indications, either existing or having existed?

Ans. I did not in the district of Laguinillas.

Ques. No indications of any description?

Ans. No, sir. We met a man carrying some specimens from the mines of Kichu.

Ques. Where was he going?

Ans. He was going to the house of Juse Pando.

Ques. Do you know where the mines of Kichu are?

dne. They are in the State of Guanajusta. Ques. Do you know whether they are now

Ans. I do.

Ques. Are they far from the boundary line of
lan Luis Potosi?

Ans. I do not know I can only judge from the

Ans. I only know by the map.

Ans. I only know by the map.

Ques. Is that map sufficiently accurate, or do you know from maps which are sufficiently accurate, where the mines of Tlapan are?

Mr. Braduay. I submit that the witness cannot tell any thing about it. These maps are entirely different, as he has not been there himself. There is a great difference between the old maps and the map made by Captain Doubleday, and one or the other of them must be wrong.

Mr. May. How far is it from Arroyo Seco to—? (name not heard.)

Ans. About eight leagues.

Ques. Is that the same Arroyo Seco which is laid down in the old Spanish map?

Ans. I suppose so.

Ques. Did you find any other Arroyo Seco laid down?

Ans. I did not.

Ans. I did not.
Ques. Does that Arroyo Seco, in relation to the

Ques. Does that Arroyo Seco, in relation to the boundaries, correspond?

Ans. Pretty nearly.
Ques. This stream, which I see is named Aravades, you say was dry?

Ans. Yee; there was very little water in it.
Ques. I will ask you if you saw any thing of a handbill posted in the town of Rio Verde?

Ans. Yes, sir.
Ques. Was that handbill signed by my name in Spanish?

Ques. Was that handbill signed by my name in Spanish?

Ans. It was.
Ques Was it posted in conspicuous places?
Ans. I saw it posted in a great many conspicuous places in Rio Verde, and also in Laguinillas.
Ques. Did it appear to attract observation?
Ans. A number of persons were reading it in both places.
Ques. Do you of anybody applying for the reward which was offered by that handbill?
Ans. A letter was received from a Mr. Abbot.
Ques. Was there any other application?
Ans. There was no other.
Ques. Did you hear of any other notice being taken of that handbill, or of any other person applying, except in the case of that letter?
Ans. I did not.
Ques. Had you seen a copy of the original mining title filed by Dr. Gardiner in Washington?
Ans. Yes, sir.

Ans. Yes, sir. Ques. Did the commissioners have it in thei ossession in Laguinillas?
Ans I think they had.
Ques. Did you see any thing of a red book of

Ques. Did you see any thing decounts?

Ans. Yes, we had it in our possession.
Ques. Do you know any thing of certain entries locating the mines on the land of certain persons?

Ans. I do not think it attracted my attention.
Ques. Did you examine the book, or not?

Ans. I glanced over it.
Ques. You read Spanish, of course.

Ans. Yes, sir.
Ques. How far is it from San Luis Potosi to Rio
Verde, according to the location of these places on that map?

that map?

Ans. It is forty and a half leagues by an ai

Ans. It is forty and a half leagues by an air line.

Ques. And how far is it by the road from Rio Verde to Laguinillas?

Ans. I have not been over the road, and I can therefore only judge by an air line. I should say about twenty two leagues.

Ques. How far is it from the boundaries of Laguinillas on the north to the town of Camotes?

Ans. Three and a half leagues.

Ques. Did you have intercourse with the people of Camotes?

Ans. Yes, sir; with most of them.

Ques. Did you, by your own observation, delineate the routes of different places and then compare them with the maps you had, and make that map as the most faithful map you could construct?

map as the most faithful map you could construct?

Ans. That was the course I pursued.

Ques. How did your observations with respect to distances and the location of places compare with the distances and locations of places on the maps you consulted?

Ans. The position of Rio Verde I made exactly the same as it is made on the maps.

Ques. And how with respect to other places?

Ans. Some of the small places were not located properly, but the large places seemed to be pretty correctly put down.

Mr. May. That is all I desire to ask the witness.

Depositions in the Chancery Suit-Trouble among the

Mr. CARLISLE. Before the cross-examination of captain Doubleday is proceeded with, I beg to say to the court that I am just reminded by the absence of the District Attorney that notice has been served upon us to attend to the taking of depositions of the witness Navarro, in the chancery suit. These depositions, I understand, are now being taken, entirely unknown to us, without our having any opportunity either of hearing what is being deposed or of putting a single interrogatory to the witness. This proceeding, while we are engaged in this court, utterly unable to leave it while this indictment is pending. I must confess, has taken both my colleague and myself by surprise; and I trust that your honor will either adjourn the court now, or direct that the notice be withdrawn.

The Court. If the United States wish to take the depositions of any witnesses, and have served you with notice to that effect, I suppose they mean to take them, and that they will by their counsel desire to be there too.

Mr. Frendatl. No, your honor. The United States are already represented there.

Mr. FENDALL. No. your bonor. The United States are already represented there.
Mr. Carliele. It is utterly impossible that we can attend to the taking of these depositions by counsel. We must ourselves attend here, unless this indictment is abandoned Nothing is more certain than that we cannot be in two places at once.

Mr. FENDALL. It is merely the case of a witness who desires to go away; whose business at home s urgent, and whose deposition we desired to have s urgent, and whose departments of ore he departed.

Mr. Carliers. He is not going away at all. He most go without our consent, and we will not

cannot go without our consent, and we will not consent, under any such circumstances. The Court. (To Mr. Carlisle.) If a notice has

consent, under any such circumstances.

The Court. (To Mr. Carlisle.) If a notice has been served upon you to take depositions while the court is in session, the court will of course give you an opportunity of attending to the taking of them. If you choose to move for an adjournment for this cause I will grant it.

Mr. Fendall. The notice was that the depositions were to be taken between nine o'clock in the morning and six o'clock in the afternoon. They might be taken to morrow.

Mr. Carlisle. But I understand they are taking them now.

Mr. Fendall. Yes, they are taking them now. The United States are represented there.

Mr. Bandley. What! Are they taking depositions now, and we know nothing about it?

Mr. Fendall. Yes, they are taking them now.

Mr. Carlisle. And you really say, Mr. Fendall, that these depositions are being taken now?

Mr. Fendall. Yes, they are taking them now.

The Court, (to the defence.) If that is the case, the court will adjourn on your motion at any time.

Mr. BRADLEY. I never heard of such a proceeding in all my life.

Mr. Fendall. We are only taking testimony which has been given here already. It is to be used in the chancery suit.

The Court. I have nothing to do with that. If

the counsel ask the court to adjourn, and a good reason is given for it, the court will grant an adjournment.

Mr. Carlisle. I must be allowed to say that is the most strange proceeding that ever came to my knowledge. Depositions, the counsel for the prosecution tells us, are now being taken, thus putting us entirely off our guard, while we are obliged to be here engaged in the trial of this case. I must say again that it appears to me to be a most extraordings, proceeding.

say again that it appears to me to be a most extraordinary proceeding.

The Court. This is not a matter in point before
me at all, and I do not wish to say any thing about
it. You certainly have a right to be there; and if
you ask me to adjourn the court to give an opportunity of attending to this matter, I will adjourn
the court immediately.

Mr. Carlisle. But some of these depositions
have been taken already, and we have had no on

Mr. Carliele. But some of these depositions have been taken already, and we have had no opportunity of cross-examination.

The Court. I cannot help that. If you had saked me to adjourn before, I would have adjourned the court to give you an opportunity of being present.

Mr. Carliele, But we have only this moment acceptanced what was going on; and I should not

Mr. Caritais, But we have only this moment ascertained what was going on; and I should not have dreamed of such a proceeding had I not accidentally remarked the absence of the District Attorney. It is exactly of a piece with a similar proceeding which took place last summer, when we were notified to attend to the taking of depositions in Virginia while engaged in taking depositions here.

Mr. Example: This is the accord time that in-

court has nothing to do; and I cannot permit it to be discussed now. I want to know what is your wish with respect to the matter. With chancery proceedings I have nothing whatever to do.

Mr. Fandall. I presume they are done by this time. They were taking the depositions about ten minutes ago when I was there; but I suppose they are now finished.

Mr. Canlisls. Then, if they are done, and have taken these depositions in our absence, and without our knowledge, it is not worth while for the court to adjourn.

The Court. Well, gentlemen, I cannot interfere in this matter. It is not before me. You had better act upon facts, and see whether the taking of these depositions is finished or not, and then say whether or not I shall adjourn the court.

Mr. Baadley. We understand that this is a deposition of the witness Navarro, who was examined here the other day in this court in this cause. Your honor, I think, gave notice to the United States that they could not discharge their witnesses without our consent, but that they must be kept here. I understand from the District Attorney that he knows that the witness is going away. If there be any process by which he can be kept here I hope he may be kept; and I will ask the court to issue an attachment.

The Court. He ought to remain undoubtedly, and must remain until he is discharged by the court.

Mr. Baadley. If he is to be permitted to go

and must remain until he is discharged by the court.

Mr. Baadler. If he is to be permitted to go away without our consent, the interest, and even the liberty of our client may be seriously jeopard ized, and I think that some means ought to be taken to compel him to remain.

Mr. Ferdall. The gentleman has entirely mis represented what I have said—not intentionally, I presume I did not say that the witness was going away, but that he was very desirous to go. Suppose he will not remain, am I to risk the failure of the chancery suit by neglecting to take his deposition, because the counsel for the defendent can procure other counsel to attend to the taking of these depositions, or they can attend at nine o'clock in the morning and continue till the meeting of this court.

Mr. Baadley. The District Attorney certainly said that the witness was going away.

The Court. Oh, he won't go away if you tell him e must stop.
Mr. FENDALL. But I cannot run the risk of that.
The Court. Well, I have nothing to do with

The Court. Well, I have nothing to do with that.

Mr. Brader. I think there is here laid a fair foundation for the detention of this witness by process. The District Attorney has just said that he did not state that he was going away. I aver that he did say that he knew he was going away. The court heard the statement, and everybody else heard it; and on that ground I ask for an attach ment against the witness.

The Court. He is not yet gone, and I cannot issue an attachment. But the court will say that hearnust remain here until he is dismissed.

Mr. May. When will your honor dismiss him? The Court. I cannot tell. It depends upon whether the defence will consent.

The Court. I cannot tell. It depends upon whether the defence will consent.

Mr. May. I trust that after the case for the prosecution is closed your honor will say that he may go. His business at home is urgent.

The Court. There might perhaps be some order made in such a case; but the court can say nothing about it at present.

Mr. May. They can file their interrogatories at any other time, or fix a time when they may choose to make them in person.

The Court. It is sometimes very important to parties in a suit that they should hear the interrogatories put by their opponents, not only on account of the manner in which they may be answered.

Mr. May. Well, sir, when the case for the prosecution is closed, and the defence is commenced, and the defence is commenced.

Mr. May. Well, sir, when the case for the prosecution is closed, and the defence is commenced, we shall feel it to be our duty to ask the counsel for the defence to take what further examination of Mr. Navarro they may desire, in order that he may be permitted to depart.

Mr. Braden, When the proper time arrives we hope we shall know what is our duty. Neither Mr. Carlisle nor myself have shown any disposition to subject anybody to inconvenience; but we must consult the interests of the defence. I do not mean to sacrifice the interest of anybody under my care to suit the convenience of anybody under the sun. We have already shown, we think, much patience. Much time has been, as we think, wasted unnecessarily. We have been and are now at great expense, and have not complained; but this great expense, and have not complained; but this is going beyond all endurance. If your honor please, I think I will move that the court adjourn

The Couat. If you allege the taking of these depositions as the reason, I will of course adjourn. (To Mr. Fendall.) Do you suppose you will be able to get through to-day?

Mr. FENDALL. I cannot answer. Much will de-

Mr. Farnall. I cannot answer. Much will depend upon the cross-interrogatories.

Mr. Carleir. They are now going on with these depositions, or, for any thing I know, may have finished them. Such we learned, a little while ago, from the District Attorney, was most probably the case. Now, I desire to repeat to the District Attorney that when this notice was served upon us, and when I complained to him that it was impossible for us to attend in consequence of being obliged to be here, he stated that there would be an examination of these witnesses, for the purposes of this chancery suit, before and after the hours of the meeting and adjournment of this court; and yet, in violation of what I understood to be a distinct agreement, he goes on to take these depositions in our absence and without our knowledge.

Mr. Fandall. The time specified was between the hours of nine o'clock in the morning and six o'clock in the evening.

Mr. Carleile. But you distinctly gave us reason to believe that you would not go on with the

Mr. Fendall. I stated that the arrangement was such that the depositions might be taken before and after the meeting of this court.

Mr. Beadley. We wish to know now whether the United States are going to examine any other witnesses than this Navarro. We don't want this thing to occur every day just when we are in the middle of our most important cross-examinations.

Mr. Fendall. What we intended to do was to take the depositions of these two foreign witnesses—Navarro and Aguillar. They are very desirous of going away; and this being done, we purposed to ask the gentlemen on the other side to conclude their examination of these witnesses in this court and let them go. The other witnesses are here and will be here, and their depositions can be taken, not immediately, but when convenient.

Mr. Bradery. And I suppose that "convenien Mr. Beadley. And I suppose that "convenient season" will be just when we are in the most interesting part of our defence.

The Court. Well, gentlemen, you had better decide upon something. All I can do in the matter is to adjourn the court to give you an opportunity of attending to the taking of these depositions if you desire it.

Mr. Fendall. Could not the court adjourn at an earlier hour—say three o'clock—and thus give the defendant's counsel the opportunity which they wish?

Mr. Carliele. That is, to give you an opportunity of go ng and taking depositions all day, and we are to go there after being engaged here all day.

The Count. The court might meet at a later hour each day—say twelve o'clock—and that would give you the whole of the early part of the

would give you the whole of the early part of the day.

Mr. FENDALL. That might answer.

The Court. But you must arrange it among yourselves; the court cannot make any order in the matter.

Mr. Baadley, (after consulting with Mr. Carligle.) We have conferred upon this matter, and believe that evidence taken in this way cannot be used against us in the chancery suit. If such evidence can be got in it will be the first time that such a thing was ever heard of in any court in christendom.

Mr. Carliele. Your honor's obliging offer to adjourn the court for our accommodation is not

The Court. I am willing to accommodate you ill round; but I think these observations had better all round; but I think these observations had better described to me, but to the circuit court.

Mr. Carista. I am aware of that; and I merely make this statement to show the position in which we are placed.

Mr. FERDALL made a remark in a low tone of two courts, which escaped the car of the reporter.

Mr. Cartists. I did think that a feeling of

Mr. Carliels. I did think that a feeling of delicacy would have induced the prosecution to refrain from serving this notice on the defendant white engaged in attending to this trial, and that he would not, while defending himself from an accusation here, be compelled to forego his rights claewhere. Here his character and liberty are at stake; there his whole fortune is at stake. This trial prevents him from attending there; and attending there would prevent him from taking the proper means of answering the charge that has been brought against him here. This course of proceeding naturally disturbs both him and his counsel, and operates greatly to his disadvantage. Under these circumstances, I spoke to the District Attorney when this notice was served. I asked him, "What do you mean? Are we to attend to the taking of these depositions while this trial is going on?" and he said "No;" and he meantioned the hours before and after the meeting and adjournment of this court for the taking of these depositions. Then, without a word more upon the subject, and without the least dream of suspicion on our part that he was at this time going to take these depositions, either before 10 o'clock in the morning, or after 4 o'clock in the afternoon—after all that, after this distinct understanding thus forcibly impressed upon my mind, and in the midst of the examination of a witness to day, noticing the absence of the District Attorney, I inquired where he could be, and I thought it barely possible—though I must confess I could hardly conceive it probable—that he might be at the Mayor's office taking these depositions, and we knew not a word about it!

Mr. Fendall. The terms of the notice were that these depositions, and we knew not a word about it!

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Mr. Fendall. And is upposed that the thing would be done, and that we would have due notice.

Mr. Carliels. And is supposed the thing would be done, and that we would have due notice.

would be done, and that we would have due notice.

Mr. FENDALL. And I supposed that the thing was perfectly understood. But if there is any sort of misunderstanding about it, if the gentlemen will agree to have these depositions taken before and after the meeting and adjournment of this court, all the depositions which have been taken to-day shall go for nothing, and we will begin afresh.

Mr. Carlier. I understood the proposition to be distinctly made in the way that I have stated; and knowing now that a different course has been pursued, I shall make no agreement with the counsel of the United States; for, should I do so, after I have made it I can have no reliance upon what may be the result.

Mr. FENDALL. It was a mere chance conversation; there was no positive agreement made about it.

about it.

Mr. Carlists. So far from that being the case,
I must aver that I understood the thing quite differently.

The COURT. I cannot say a word about it. It

The Court. I cannot say a word about it. It does not at all concern the proceedings before this court. All that I can do is to accommodate both parties as far as I can, which I have already expressed a willingness to do.

Mr. Carliele. Your honor has been kind enough to offer to adjourn; but, without any fault on the part of your honor; that offer comes too late. We feel obliged for your honor's courtesy; but the mischief has now been done, and the prosecution must repair it as they best may.

Mr. Frendall. We are willing to withdraw what has been done, and to take the depositions before and after the meeting and adjournment of this court, if that will suit the convenience of the counsel for the defence, or in any other reasonable mode that may be suggested.

Mr. Bradley. No, sir; it would be said again, as it has been said before, that we wanted to make capital out of it.

Examination of Capt. Doubleday by Mr. Bradley.

mination of Capt. Doubleday by Mr. Bradley Ques. Have you the tracings of the map which ou made?

Ans. I have not; they were accidentally burned

Ques. And you made no other copy of them?

Ans. Did not; but reduced them to this scale.

Ques. Have you any copy of the map of Colone Reyes?

Ans. I bave not.

Ques. Is it a map of the State of San Luis Pot
si, or a particular portion of that State?

Ans. Colonel Reyes had no map of the State
San Luis Potosi. He had small maps of differe

parts—sketches, notes of distances, &c., which he had taken at different places.

Ques. Were they surveys?

Ans. They were.
Ques. And plots?

Ans. Yes, sir.
Ques. Do you recollect any other information you obtained?

rou obtained?

Ans. The only other information I obtained from
Colonel Reyes's map was from his map of Quera-Colonel Reyer's hisp was a full map?

Ans. It was a full map, and had the boundary of Laguinillas upon it, and the two principal roads laid down—one from Laguinillas to Arroyo Seco, and the other to Acapulco.

Ques. Do you recollect of any other road laid down in Laguinillas except those which you have copied from the two maps of Colonel Reyes?

Ans. No. These were laid down because they were embraced in that section of country near the boundary.

oundary.

Ques. Do you recollect whether there was lace called "Nogales" Ans. I do not.

Ques. Then the southern boundary of Laguiillas, as you have described it upon your map, is

aken from these two maps?

Ans. It is.

Ques. You did not visit that portion of the country yourself, I believe.

Ans. No; except the one corner-stone near Com unidad. Ques. I understood you to say that you correct se map which you had as far as necessary by c

he map which you had as far as necessary by obervation?

Ans. Yes, sir.

Ques. Did you make any siderial observations?

Ans. I did not. I did not not take the longitude nd latitude.

Ques. What instruments had you?

Ans. I had a prismatic compass

Ans. I had a prismatic compass and a small compass.

Ques. Then you had no transit instruments?

Ans. I had not.

Ques. Then how did you make your observations on which you corrected these maps?

Ans. By observations of the course of the road by the compass. The distances I had to judge of as I obtained them from guides, and the time intervening from the leaving of one place to the arriving at another.

Ques. I understand you to say that that map represents the positions of places as corrected by you. Is that so?

Ans. Yes: I mean the places on the route.

you. Is that so?

Ans. Yes; I mean the places on the route.

Ques. What places did you correct?

Ans. I corrected the villages from Guadaleaz
up to San Luis Potosi, and down to Rio Verd up to San Luis Potosi, and down to kno verue where I came out exactly. Ques. That is to my, suppose the distances given you by these guides were correct, and, aided by your own observations by the compass, you cam

your own observations by the compass, you came out right?

Ans. Yes, sir.

Ques. Did you observe whether there was any lifficulty in traversing with your compass in any part of the route you went?

Ans. I did not.

Ques. You say you made an observation at the couthern boundary stone. Explain what that observation was? ervation was?

Ans. I could not say that I made an observation.

merely saw that it was properly laid down on the

Ass. I settimated by the distance and the time fues. But there was no scientific observable pplied to it, nor had you the means of obtaining proper location?

Ass. I took the official position of this road.

aw that it was in the main correct; and, seein

saw that it was in the main correct; and, seeing that the corners appeared to be correctly laid down, I took it to be officially given.

Ques. Your language in answer to Mr. May's question was, "I made an observation at the southern boundary stone and at the northern boundary stone, and found them to correspond with the distance laid down in the map." I supposed from that that you had taken some observation?

Ans. No, sir.

Ques. When you speak of having made repeated observations along the line of the road, I am to understand you to mean that with your compass you observed the course of the road, and estimated the distances, and took them from the guidea?

Ans. I did not take them from the guidea?

Ans. I did not take them from the guidea?

Ans. Then, it was a reconnoissance you took, and not a survey?

Ques. That is what I suppose. I did not know but that you had some instruments by which you could make a survey. I understand that from Rio Verde to Arroyo Seco you did not leave the trask which was marked down on the map, which was but a mule-track—that you did not go off the road to make observations?

Ans. I would take observations from the highest points of the road with the compass.

Ques. I understand you to say that the chapparal was thick all the way from the boundarystone to the village of Laguinillas?

Ans. Yes, it was off the road. The country is covered with it, and that was the reason why I did not make a more regular survey.

Ques. We understand that you left Camotes in the morning, and arrived at Laguinillas on the same day. That is some ten leagues, I believe—some twenty-seven or twenty-eight miles—in an indescribably rough country. Would that allow you much time to make mathematical observations?

Ans. I took a good many observations during

you mach time to make mathematical observations?

Ans. I took a good many observations during
that day.

Ques. Them, you did not leave the road for the
purpose of exploration?

Ans. We never at any time went far off the
road.

Ques. Would it not have been very difficult to
have crossed that country from east to west, intersecting the road at short distances all the way
from Laguinillas to that boundary-stone?

Ans. Oh yes, sir.

Ques. I have no doubt, from what you said,
that a steam-engine, in its ordinary mode of construction, could not be readily transported through
that country, but are you not aware that steamengines are sometimes constructed in sections for
the purpose of more convenient transportation?

Ans. I have never seen any such.

Ques. Nor read of any such in scientific books?

Ans. No, sir.

Ques. Is there any thing in the structure of the
steam engine, so far as you are acquainted with
it, which would prevent its being cast in sections
or joinst, and being put together by screws or
bolts?

Ans. I have not studied the construction of the

bolis?

Ans. I have not studied the construction of the steam-engine sufficiently to say.

Ques. Then, when you say a steam engine could not be carried into that country, you mean a steam-engine as engines are ordinarily constructed?

not be carried into that country, you mean a steam-engine as engines are ordinarily constructed?

Ans. I do.

Ques. Could you see the village of Laguinillas in approaching it or on leaving it at any distance from the road?

Ans. I could not see it at any great distance on the road. On the road to Arroyo Seco, after we got over four or five miles, I think we could look back and see the village.

Ques. I see by your map that the mountains run east and west. I supposed that having passed the ridge of mountains you could readily see Laguinillas?

Ans. Not after having passed the first.

Ques. Then that plan is merely to represent a general ridge of mountains, and not to show that it was a connected ridge?

Ans. Certainly; on so small a scale we could not represent every hill.

Ques. Was not the country south of Laguinillas much broken into separate hills, with gorges between them?

Ans. Yes, sir.

Ques. You say you passed the dry bed of a stream. Is that the one you have marked upon your map?

Ans. It is; there was very little water in it. I put this stream in from the map which I copied; and, seeing something corresponding to what is laid down on the map where we crossed it, I took it as a verification of it, but I did not follow it up.

Ques. Is the stream you have there laid down on the map entirely traced from the map you had before you, or is any part of it laid down on your map from your own observations. Is it marked on any map?

Ans. It is.

Ques. Is not the country east of Laguinillas as rugged as any you passed over?

Ans. It is.

Ques. Then I see a straight stream marked on your map, and I supposed that it was laid down observation?

Ans. Where we crossed it it corresponds with my observation made on this map.

Ans. Where we crossed it it corresponds with my observation made on this map.

see it as you passed along the road, except where you crossed it?

Ans. No, sir.
Ques. That also was copied from the map you had before you?

Ans. Yes, air.
Ques. And, after leaving Laguinillas, you found no stream till you got to Carasal?

Ans. None of any size.
Ques. Say such a stream as Rock creek?

Ans. We saw none such.

Ques. Do you remember the breadth and depth of the stream you saw at Carasal?

Ans. Its breadth and depth depends upon the seasons.

geasons.

Ques. Of course I am aware of that; but I am speaking of the time you were there?

Ans. It was about as wide as from where I stand to the door of this room, (about forty or fifty feet.) I recollect bathing in it. It was not deep. I had to lie down to get the benefit of the water.

Ques. You say that stream ran in a southeasterly direction?

ly direction?

Ans. Yes, sir.
Ques. In what direction were you going?

Ans. Southwest.
Ques. Were you not going southeast from Arroyo Seco to Carasal?

Ans. I think our course was nearly south?
Ques. And not southeast?

Ans. I think not.
Ques. Have you any memorandum by which you an ascertain that fact?

Ans. I have not.

can ascertain that fact?

Aus. I have not.

Ques. You have no memorandum of the direction of the road from Arroyo Seco to Carasal. You have spoken of that little place in the corner of your map, taken from an old Spanish map. Is there any thing to indicate the bearings of the compass in regard to it?

Aus. There is not. I took it, though, as north

Ans. There is not. I took it, though, as north and south.

Ques. If it is north and south, does it correspond with the actual position of the boundary of Queretaro and Laguinillas?

Ans. It does not.

Ques. Does the western boundary in any respect correspond with San Lois Potosi and Queretaro, as laid down in that map?

Ans. I do not think it does.

Ques. Neither the northeastern nor the north-western boundary?

Ans. I think not.

Ques. Then on that map, if it is made north and south, from Arroyo Seco to Carasal would be south, would it?

Ans. I do not know whether the place put down

south, from Arroyo Seco to Carasal would be south, would it?

Ans. I do not know whether the place put down here is intended for Carasal or not. The town itself is not put down.

Ques. Is there any town at Carasal?

Ans. Yes, sir; there is a town there,

Ques. Could you see the course of that stream after you passed Carasal and before you reached it?

Ans. I do not remember where I first came in sight of it.

Ques. Is there any thing in your recollection to show that that stream did not run to the northeast?

Ans. The water ran to the southeast; I remember the direction of the valley.

Ques. Do you remember the direction you were going at the time?

Ans. Our direction was southwest from Carasal.

Ques. But I mean from Arroyo Seco?

Ans. I do not remember.

Ques. Can you state the distance from Arroyo Seco to Carasal?

Ans. It is difficult to judge, the road was so very rough, but I should think five or aix leagues.

Ques. While at Laguinillas did you visit the office of the alcalde, or any office where deeds were registered?

Ans. I visited the alcalde's office

Ans. I do not know.

Ques. Did you not go there to see if any deeds
were registered?

Ans. I do not know.

Ques. Did you not go there to see if any deeds
were registered there?

Ans. No, sir. I stepped in with the other com-

nismoners.

Ques. Who were taking testimony?

Ans. Yes, sir; and I there saw a paper purporting to be a mining title of Dr. Gardiner.

Ques. Was the alcaide present white you were

here?
Ans. He was.
Ques. Something has been said about a paper which the commission carried from San Luis Potosi, addressed. I believe, to the alcalde of LaguiniHas.
Do you know any thing of such a paper in reference to Dr. Gardiner? Ans. I understood that they had a process to

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el him to show his mine, in case he refused to

show it.

Ques. Have you that paper here?

Ass. I have not.

The Court. Who did you say had that paper?

Ass. I understood that Mr. May had a paper to compel him to go and show his mine, if he refused to go with us and show it.

Mr. Baadley. If he refused to go. How was he tolbe compelled?

compel him to go and show his mine, if he refused to go with us and show it.

Mr. Bradley. If he refused to go. How was he tobe compelled?

Mr. Fredelt. I object to that question.

Mr. Bradley. Then I shall task for the production of the paper.

After a little delay, Mr. Bradley resumed the cross-examination of Captain Doubleday.

Ques. Do you recollect when it was that you were in the office of the alcalde at Laguinillas taking depositions? Was it the first day or the second day that you were there?

Ans. It was the second day, I think. They might have taken testimony the first day, but I cannot speak to that.

Ques. Do you know whether it was the design of the commission to go round by Rio Verde or by Queretaro?

Ans. They desired to return by the quickest route, and we were informed that the latter was the shortest by two or three days.

Ques And when you got to Laguinillas you had not determined which route you would take?

Ans. I think not.

Ques. Then it was not the design of the commission to return to Rio Verde?

Ans. No, sir.

Ques. Now in regard to that paper you have spoken of about compelling Dr. Gardiner to show his mines, was it at any time shown to the alcalde?

Ans. Not to my knowledge. It was not unade use of at all that I know of.

Ques. I understand you arrived at Laguinillas in the afternoon of one day, and spent the next day there, and then, on the morning of the following day by about sunrise, you left the town?

Ans. Yes, sir; we arrived at three o'clock in the afternoon, and we left on the morning of the second day afterwards.

Ques. And on your way to Arroyo Seco you met a man bearing specimens of ore from the mines of Xichu, going to the house of Jose Pando Ans. No, sir; that was after we left Carasal.

Ques. How did you ascertain the fact that he had specimens of ore from the mines of Xichu?

Ans. Because we stopped him and made inquiries about Dr. Gardiner's mine.

Ques. Don't tell us about any inquiries you made after Dr. Gardiner's mine.

Ans. I did not.

Ques. In bannier?

Ans. In

Ans. I did not.
Ques. How washe transporting them?
Ans. On a small donkey.
Ques. In panniers?
Ans. A kind of rough panniers slung on each side.

Ques. You know nothing of the weight?

Ans. I do not.

Ques. All you know then is that you met a man who told you that he had specimens of ore from the mines of Xichu, and that he was going to the house of Jose Pando?

Ans. Yes.

Ques. You have been asked about a letter addressed to Mr. May in Laguinillas by Mr. Abbot.
Did you see that letter?

Ans. I did.

Ques. And the reply?

Ans. I did.

Ques. And the reply?

Ans. I did.
Ques. And the answer to the reply?

Ans. I did.
Ques. Did they pass all on the same day or on different days?

Ans. I think on different days.
Ques. Do you recollect whether, after the receipt of the first letter from Mr. Abbot, Mr. May, or any of the commission, went to the office of the alcalde before they replied to that letter?

Ans. I do not.
Ques. Had the commission entirely completed their examinations, or the work in which they were engaged at Laguinillas, on the morning that they left there, or did they leave the town earlier than they originally designed?

Ans. They had completed every thing they designed to do there.

Ques. Do you know whether they got copies of any papers there? any papers there?

Ans. They got a copy or part of a copy of one paper from the alcaide's office.

tion.) Gentlemen, I do not want to serve a formal notice upon you for the production of that paper, but I would like to see it.

Mr. Max. If it is to go to the jury, I have no objection to produce it.

Mr. Baadley. To offer a pig tied up in a bag is not a fair offer. When it is here, and I see it, I will say whether I desire it to go to the jury or Mr. May. I do not want the trouble of hunting

for it unless I know it is to go to the jury.

Mr. Baadley. If you let me see it perhaps I may
be glad to get it there.

The court here took a recess of nearly an Re examination of Captain Doubleday by Mr. May. Ques. Did I understand you to say that this place, "Carasal," was a town?

Ans. I should call it a town. It is like a great many other Mexican towns, very small. It had some twelve or fifteen houses in it. It is a small

village.

Ques. Was it not a sugar estate?

Ans. I believe they did make sugar there.

Ques. Can it be called a town?

Mr. Bradley. He has just said it was a town;
surely you do not want to cross-examine your own witness? own witness?

Mr. May. Was it a public or a private town? Ane. I really did not inquire.
Ques. Did you see any church there?
Ans. No.

Ans. No.

Ques. Any blacksmith's shop or store or alcaide's office?

Ans. I did not; for that section of country it seemed to be a village—a larger collection of houses than usual.

Ques. Were most of the people you saw there employed in making sugar?
Ans. I did not notice. There were sugar estates Ans. I did not notice. There were sugar estates round the village.

Ques. Were they not bringing bags of augar on their heads to the warehouse?

Ans. I cannot say. I do not remember observing any thing of the kind.

Ques. Did you observe any of the general characteristics of a town—such as streets, lanes, plazas, &c.?

plazas, &c.?

Ans. None.
Ques. Were they not like negro huts scattered round an estate?

Ans. Yee, they seemed to be so.
Ques. I understood you to say that you never saw a steam-engine made in sections?

Ans. I never have.
Ques. I will ask you whether, in saying that a steam-engine could not be carried into that country, you mean an engine for any practical purpose?

Ans. That is what I mean.

Mr. Bradley. Could you carry artillery there?

Ans. No.

Ans. No. Mr. May. Could you carry small artillery Mr. BRADLEY. I understand you did not, at any

itsers there.

Mr. Brader. I understand you did not, at any time, for the purpose of exploration, leave the main road from the northern boundary stone; Ans. I did not for any great distance. I would sometimes go to a little elevation not far from the road; where I could see the country round.

Mr. May. We now propose to renew an offer we made the other day. It is a little varied, and I think so as not to come within the rule prescribed by your honor.

We propose to inquire about the existence of this mine, or any mine, by public reputation; and we think that the aspect of the proposition is considerably changed since it was first mooted before the court. We have now given evidence to show that these mines are part of the eminent domain of Mexico; that the title to mines is granted by the public authorities; that all transactions regarding their titles are of an open and public nature, and that, besides that, a tax is paid upon the silver taken from the mines. I advert to these points of evidence to show the court the public nature of the mines as stablished, in evidence, which we not done before. Also, the relation of the mines to the government as a public affair, in which the whole public of the State are interested; and we now offer to give the testimony of persons who have resided all their lives in Mexico, to show that when a mine is denounced, and possessin in taken, and gets into a state of prosperity, or bonassa—that is, yielding more than its expenses—it becomes notorious to everybody, and in that way becomes a matter of the most public not riety—a